



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड—2

PART II—Section

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 59 नई दिल्ली, मंगलवार, विसम्बर 7, 1965/अग्रहायण 16, 1887

No 59 NEW DELHI, TUESDAY, DECEMBER 7, 1965/AGRAHAYANA 16, 1887

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 7th December, 1965:—

BILL No. XV OF 1965

a bill further to amend the Wakf Act, 1954.

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Wakf (Amendment) Act, 1965. Short title.

29 of 1954.

2. In section 3 of the Wakf Act, 1954 (hereinafter referred to as the principal Act), for clause (g), the following clause shall be, and shall be deemed always to have been, substituted, namely:—
Amend-ment of section 3.

“(g) “net annual income” in relation to a wakf means the gross income thereof from all sources in a year excluding—

(i) any land revenue, cess, rates and taxes payable to the Government or any local authority; and

(ii) donations given or offerings made with a specific direction that they shall form part of the corpus of the wakf:

Provided that the interest or income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income;’.

Amend-
ment of
Section 7.

3. In section 7 of the principal Act, in sub-section (1), for the words “by all the mutawallis in proportion to the income of the property of the wakfs situated in the State,” the words “by all the mutawallis of wakfs the net annual income whereof exceeds rupees one hundred, in proportion to the income accruing in the State to such wakfs,” shall be substituted.

Amend-
ment of
Section
8B.

4. In section 8B of the principal Act, in sub-section (1), the words “of the properties” and the words “of the property” shall be omitted.

Amend-
ment of
Section
46.

5. In section 46 of the principal Act, in sub-section (1), for the words “net annual income of such of its property as is situate in the State”, the words “net annual income accruing to the wakf in the State” shall be, and shall be deemed always to have been, substituted.

Valida-
tion of
contribu-
tions paid
or realis-
ed under
Section
46.

6. Notwithstanding anything contained in any law or any judgment, decree or order of any court, all contributions paid or realised, or purporting to have been paid or realised, under section 46 of the principal Act which would have been validly paid or realised if the amendments made to the principal Act by this Act were in force on the date of such payment or realisation, shall, for all purposes, be deemed to be, and to have always been, paid or realised in accordance with law and accordingly—

(a) no suit or other legal proceeding shall be maintained or continued in any court for the refund of the whole or any part of the contribution so paid or realised; and

(b) no court shall enforce any decree or order directing the refund of the whole or any part of the contribution so paid or realised.

STATEMENT OF OBJECTS AND REASONS

The Wakf Act, 1954 was enacted to provide for the better administration and supervision of wakfs. So far, the Act has been amended twice, once in 1959 as a follow-up measure of the States Reorganisation Act, 1956 and later in 1964, for the purpose of making the working of the Wakf Boards, set up under the Act, more effective.

2. It is felt that it is necessary to further amend the Act in certain respects. |

(1) Firstly, under the Wakf Act, 1954, the contribution payable by mutawallis of the wakfs to the Board of Wakfs has to be calculated with reference to the net annual income of the wakfs. Section 3(g) of the Act which defines "net income" provides that net income means "the total income less any revenue, cess, rates and taxes payable to the Government or any local authority". The intention has always been that in computing net income, no deductions other than those expressly provided for in the definition should be permitted. A contrary view has been taken in a recent case by a Division Bench of the Kerala High Court and it has, therefore, become necessary to clarify the intention in clear-cut terms by substituting a new definition of "net annual income" for the existing definition of "net income" and to validate contributions already realised in accordance with such intention. It is also proposed to avail of this opportunity to set at rest certain doubts which have been expressed as to whether income of a Wakf includes donations and offerings made to the wakfs.

(2) Secondly, it is proposed to amend sections 8B and 46 of the Act to bring them into conformity with the new definition of "net annual income".

(3) Thirdly, under section 7 of the Act, all wakfs, irrespective of their income, are liable to bear the cost of survey of wakfs. It is felt that this would be an unreasonable burden in the case of wakfs with limited income, such as wakfs whose net annual income does not exceed Rs. 100. In this connection, it may be mentioned that

such wakfs are already exempt from the liability to pay any contribution to the Board of Wakfs under section 46 of the Act. It is, therefore, proposed to amend section 7 of the Act suitably to exempt wakfs of the type mentioned, from the liability to bear the cost of survey of wakfs.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 27th November, 1965.

HUMAYUN KABIR.

BILL NO. XVI OF 1965

A Bill further to amend the Delhi Shops and Establishments Act, 1954.

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Delhi Shops and Establishments (Amendment) Act, 1965. Short title.

2. In section 2 of the Delhi Shops and Establishments Act, 1954 (hereinafter referred to as the principal Act),— Amendment of section 2.

(a) after clause (1), the following clause shall be inserted, namely:—

‘(1A) “apprentice” means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;’

Delhi
Act VII
of 1954.

(b) for clause (7), the following clause shall be substituted, namely:—

“(7) “employee” means a person wholly or principally employed, whether directly or otherwise, and whether for wages (payable on permanent, periodical, contract, piece-rate or commission basis) or other consideration, about the business of an establishment and includes an apprentice and any person employed in a factory but not governed by the Factories Act, 1948 and, for the purpose of any matter regulated by this Act, also includes a person discharged or dismissed whose claims have not been settled in accordance with this Act;”.

63 of 1948.

Substitution of new section for section 10.

Interval for rest and meals.

3. For section 10 of the principal Act, the following section shall be substituted, namely:—

“10. (1) The period of work of an adult employee in an establishment each day shall be so fixed that no period of continuous work shall exceed five hours and that no employee shall be required or allowed to work for more than five hours before he has had an interval for rest and meals of at least half an hour.

(2) The time for such interval shall be fixed by the employer and intimated to the Chief Inspector a week before such fixation and shall remain operative for a period of not less than three months.”.

Amendment of section 16.

4. In section 16 of the principal Act, in sub-section (3),—

(a) for clause (i), the following clause shall be substituted, namely:—

“(i) The Government may, by notification in the Official Gazette, specify a close day for the purposes of this section and different days may be specified for different classes of shops or commercial establishments or for different areas.”;

(b) clause (ii) shall be omitted and clause (iii) shall be re-numbered as clause (ii).

Amendment of section 21.

5. In section 21 of the principal Act, in sub-section (2),—

(a) after the words “employee himself”, the words “or any official of a registered trade union authorised in writing to act on his behalf” shall be inserted;

(b) for the words "six months", in both the places where they occur, the words "one year" shall be substituted.

6. In section 22 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
22.

"(1) Every person employed in an establishment shall be entitled—

(a) after every twelve months' continuous employment, to privilege leave for a total period of not less than fifteen days;

(b) in every year, to sickness or casual leave for a total period of not less than twelve days:

Provided that—

(i) an employee who has completed a period of four months in continuous employment, shall be entitled to not less than five days' privilege leave for every such completed period; and

(ii) an employee who has completed a period of one month in continuous employment, shall be entitled to not less than one day's casual leave for every month:

Provided further that a watchman or caretaker who has completed a period of twelve months in continuous employment and to whom the provisions of sections 8, 10, 11, 13 and 17 do not apply by virtue of an exemption granted under section 4, shall be entitled to not less than thirty days' privilege leave.

(1A) (i) Privilege leave to which an employee is entitled under clause (a) of sub-section (1) or under any such law, contract, custom or usage, award, settlement or agreement as is referred to in section 3, or any part of such leave, if not availed of by such employee, shall be added to the privilege leave in respect of any succeeding period to which he is so entitled, so however, that the total period of such privilege leave which may be accumulated by such employee shall not at any one time exceed three times the period of privilege leave to which he is entitled after every twelve months' employment under that clause or under such law, contract, custom or usage, award, settlement or agreement.

(ii) Leave admissible under clause (b) of sub-section (1) shall not be accumulated."

Substitution of new section for section 24.

7. For section 24 of the principal Act, the following section shall be substituted, namely:—

Contracting Out.

"24. Any contract or agreement whether made before or after the commencement of the Delhi Shops and Establishments (Amendment) Act, 1965, whereby an employee relinquishes any right conferred by this Act, shall be null and void in so far as it purports to deprive him of such right."

STATEMENT OF OBJECTS AND REASONS

The Delhi Shops and Establishments Act, 1954, which was enacted by the then Delhi Legislative Assembly, regulates the hours of work, payment of wages, grant of leave and holidays, terms of service and other conditions of work, of persons employed in shops, commercial establishments and establishments for public entertainment. The working of the Act has revealed certain difficulties in the effective enforcement of its provisions. With a view to removing these difficulties, it is now proposed—

(a) to widen the coverage of the Act so as to bring within its scope apprentices, piece-rated workers and persons employed on commission basis;

(b) to make it obligatory for the employer to fix interval for rest and meals and to intimate it to the Chief Inspector;

(c) to vest in the Government the power to specify by notification the “close day”, locality-wise, trade-wise or uniformly for the whole of the Union territory of Delhi;

(d) to provide that claim applications arising out of delayed payment or non-payment of wages can also be filed by any official of a registered trade union if authorised in writing by the employee;

(e) to increase the time limit for filing claims from six months to twelve months;

(f) to raise the ceiling for accumulation of privilege leave from two years to three years' entitlement and to permit grant of sickness or casual leave on a proportionate basis; and

(g) to prohibit employees from contracting out of any of the benefits extended by the Act.

The Bill is intended to give effect to these proposals.

NEW DELHI;

D. SANJIVAYYA.

The 29th November, 1965.

B. N. BANERJEE,
Secretary.

